

# **EXHIBIT B**

**AKERMAN LLP**  
 BRENDA K. RADMACHER (SBN 024955)  
 E-mail: brenda.radmacher@akerman.com  
 601 West Fifth Street  
 Suite 300  
 Los Angeles, California 90071  
 Telephone: (213) 688-9500  
 Facsimile: (213) 627-6342  
  
 Attorneys for Defendant  
 W. R. Grace & Co.

**IN THE UNITED STATES DISTRICT COURT  
 FOR THE DISTRICT OF ARIZONA – PHOENIX DIVISION**

Rune Kraft,

Plaintiff,

v.

Chevron Corporation, a Delaware corporation, Valley Pacific Petroleum Services, Inc., a California corporation, Valley Pacific Petroleum Systems, Inc., a California corporation, French Camp, LLC, a California limited liability company, Valley Pacific Investments, a California based business entity, Silvas Oil Company, Inc., a California corporation, Acclaim Credit Technologies, a California corporation, Cunningham & Associates Real Estate, LLC, an Arizona limited liability company, Burr Commercial Properties, a California corporation, International Credit Recovery, Inc., a California company, W.R. Grace & Company, a Connecticut company, Mitchell Brown General Engineering, Inc., a California company, San Joaquin Sand & Gravel, a California company, Kaweah River Rock Company, a California business entity, California State Board of Equalization, an entity of the State of California, Tulare County Superior Court, an entity of the State of California, Orix Financial Services, Inc., a New York company, James Oliver, Alroy J. Oliver, Richard D. Oliver and Larry P. Oliver, residents of California, Eric M. Black, LLC, a California limited liability company, Cemex, Inc., a Louisiana

Case No: 2:21-CV-00575-PHX- DJH

**RESPONSE IN OPPOSITION TO  
 PLAINTIFF’S MOTION TO ALTER  
 OR AMEND THE JUDGMENT BASED  
 ON RULE 59(e) (DOC. 96)**

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 LOS ANGELES, CALIFORNIA 90071  
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corporation, Lehigh Hanson, Inc., a  
Delaware corporation, and DOES 1-10,  
Inclusive,  
Defendants.

Defendant W. R. Grace & Co. (“Grace”) hereby responds through counsel in  
opposition to *Plaintiff’s Motion to Alter or Amend the Judgment Based on Rule 59(e)* (DOC.  
96) (the “Rule 59(e) Motion”), and states as follows:

1. Plaintiff Rune Kraft’s Rule 59(e) Motion flagrantly violates orders entered in  
the chapter 11 bankruptcy case pending in the United States Bankruptcy Court for the District  
of Delaware (the “Delaware Bankruptcy Court”), styled *In re W. R. Grace & Co., et al.*, Case  
No. 01-01139 (AMC) (D. Del. Bankr.) (the “Grace Chapter 11 Case”). The motion also  
violates this Court’s own order restricting Mr. Kraft’s filings in the instant matter. Grace  
therefore respectfully submits that this Court should either strike or deny the Rule 59(e)  
Motion for this reason alone.

2. As discussed more fully in Grace’s *Response in Opposition to Motion for the  
Article III Court to Review the Order Issued by the Article I Court* (Doc. 72), filed on  
September 10, 2021 [Doc. 81], the January 30, 2011 order (the “Confirmation Order”)  
confirming Grace’s now long-consummated chapter 11 plan of reorganization discharged the  
claims asserted against Grace in Mr. Kraft’s complaint [Doc. 1]. The Confirmation Order  
also enjoins Mr. Kraft from asserting those claims against Grace in any forum whatsoever.  
The Delaware Bankruptcy Court’s order of August 26, 2021, a copy of which was filed in  
this matter at Doc. 72, specifically found that Mr. Kraft’s filing of his complaint had violated  
the Delaware Bankruptcy Court’s Confirmation Order, and it ordered him to seek Grace’s  
dismissal with prejudice from the instant matter. On September 8, 2021, the Delaware  
Bankruptcy Court entered another order (a copy of which is filed at Doc. 78), which found  
Mr. Kraft in contempt of that court because he had failed to file pleadings in the instant matter  
seeking dismissal of Grace with prejudice.

3. On October 1, 2021, the Delaware Bankruptcy Court entered its *Order Finding that Rune Kraft Is in Contempt of this Court by Willfully and Knowingly Violating this Court's Confirmation Order and Its Orders of August 26, 2021 [Docket No. 33256] and September 8, 2021 [Docket No. 33265] and Imposing Sanctions* [Bankr. Docket no. 33274], a copy of which was filed on the docket in this matter at Doc. 88 (the "Delaware Bankruptcy Court October 1 Order"). That order found Mr. Kraft in continuing contempt of the Delaware Bankruptcy Court's earlier orders. It also imposed a sanction on Mr. Kraft in the form of a \$1,000 *per diem* fine for each day that he failed to file the pleadings necessary to dismiss Grace with prejudice from the instant matter. To date, Mr. Kraft has failed to comply with the Delaware Bankruptcy Court October 1 Order. He therefore remains in contempt of the Delaware Bankruptcy Court, and the sanction imposed by the October 1 Order continues to accrue.

4. What's more, Mr. Kraft further violated the Delaware Bankruptcy Court October 1 Order (as well as the Delaware Bankruptcy Court's prior orders) when he filed his Rule 59(e) Motion. In filing that motion, Mr. Kraft also further violated this Court's August 13, 2021 order [Doc. 60], which prohibited him from filing any papers in this matter unless otherwise ordered by this Court. Moreover, Grace also concurs with and supports the joint response filed contemporaneously herewith by the other defendants in this matter, which requests this Court either strike or deny the Rule 59(e) Motion for the reasons set forth therein. Grace therefore respectfully submits that the Court either strike or deny Mr. Kraft's Rule 59(e) Motion.

5. In view of the fact that Mr. Kraft remains in continuing contempt of the Delaware Bankruptcy Court October 1 Order, which is now a final and nonappealable order, Grace reserves the right to seek one or more further orders from the Delaware Bankruptcy Court imposing further sanctions on Mr. Kraft to the extent that he continues to either litigate the above-captioned matter in this Court, appeal this Court's orders to the United States Court of Appeals for the Ninth Circuit, or otherwise assert the claims at issue in the instant matter

against Grace in any other venue.

WHEREFORE, defendant W. R. Grace & Co. respectfully requests that the Court enter an order either striking or denying the Rule 59(e) Motion and granting W. R. Grace & Co. such other and further relief as the Court deems just and proper.

Respectfully submitted, this the 30th day of December, 2021.

**AKERMAN LLP**

By: /s/ Brenda K. Radmacher  
 Brenda K. Radmacher (SBN 024955)  
 601 West Fifth Street  
 Suite 300  
 Los Angeles, California 90071  
 Telephone: (213) 688-9500  
 Facsimile: (213) 627-6342  
 E-mail: [brenda.radmacher@akerman.com](mailto:brenda.radmacher@akerman.com)

*Attorneys for Defendant  
 W. R. Grace & Co.*

**OF COUNSEL:**

Michael C. Marsh (*pro hac vice*)  
 Email: [michael.marsh@akerman.com](mailto:michael.marsh@akerman.com)  
 Ryan Roman (*pro hac vice*)  
 Email: [ryan.roman@akerman.com](mailto:ryan.roman@akerman.com)  
 Ashleigh C. McKenzie (*pro hac vice*)  
 Email: [ashleigh.mckenzie@akerman.com](mailto:ashleigh.mckenzie@akerman.com)  
 AKERMAN LLP  
 201 East Las Olas Boulevard  
 Suite 1800  
 Fort Lauderdale, FL 33301  
 Phone: (954) 463-2700  
 Fax: (954) 463-2224

**AKERMAN LLP**

601 WEST FIFTH STREET, SUITE 300  
 LOS ANGELES, CALIFORNIA 90071  
 TEL.: (213) 688-9500 – FAX: (213) 627-6342

1 **CERTIFICATE OF SERVICE**

2 ☒ I hereby certify that on December 30, 2021, I electronically transmitted the  
3 attached document to the Clerk's Office using the CM/ECF System for filing.

4 ☐ I hereby certify that on December 30, 2021, I served the attached document by  
5 U.S. Mail on the following, who are yet not registered participants of the CM/ECF  
6 System:

7 Rune Kraft  
8 108 W 13th Street  
9 Wilmington, DE 19801  
10 Tel.: 302-408-1000  
11 Email: rk@kraft.legal

12 *Pro Se Plaintiff*

13 Edward F Fernandes, Esq.  
14 **King & Spalding LLP**  
15 500 W 2nd Street, Suite 1800  
16 Austin, TX 78701  
17 Tel.: 512-297-6921  
18 Email: efernandes@kslaw.com

19 Erich J Almonte, Esq.  
20 **King & Spalding LLP**  
21 1100 Louisiana, Suite 4000  
22 Houston, TX 77002-5213  
23 Tel.: 713-276-7378  
24 Email: ealmonte@kslaw.com  
25 *Attorneys for Chevron Corporation*

26 Brian Schulman, Esq.  
27 Mitchell Lee Turbenson, Esq.  
28 **Ballard Spahr LLP**  
1 E Washington Street, Suite 2300  
Phoenix, AZ 85004-2555  
Tel.: 602-798-5419  
Email: SchulmanB@ballardspahr.com  
Email: turbensonm@ballardspahr.com  
*Attorneys for ORIX Financial Services Incorporated*

Cory L Braddock, Esq.  
**Snell & Wilmer LLP**  
1 Arizona Center  
400 E Van Buren  
Phoenix, AZ 85004-2202  
Tel.: 602-382-6000  
Email: cbraddock@swlaw.com

Justin Alexander Anderson, Esq.  
Vince Lee Farhat, Esq.  
**Jeffer Mangels Butler & Mitchell LLP**  
1900 Avenue of the Stars, 7th Floor  
Los Angeles, CA 90067  
Tel.: 310-203-8080  
Email: janderson@jmbm.com

*Attorneys for Cemex Incorporated*

Jacob R Sorensen, Esq.  
John R Grenfell, Esq.  
**Pillsbury Winthrop Shaw Pittman LLP**  
4 Embarcadero Ctr., 22nd Floor  
San Francisco, CA 94111  
Tel.: 415-983-1893  
Email: jake.sorensen@pillsburylaw.com  
Email: john.grenfell@pillsburylaw.com

*Attorneys for Lehigh Hanson Incorporated*

/s/ Brenda K. Radmacher  
Brenda K. Radmacher

AKERMAN LLP

601 WEST FIFTH STREET, SUITE 300  
LOS ANGELES, CALIFORNIA 90071  
TEL.: (213) 688-9500 – FAX: (213) 627-6342